IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

OP.No. 26456 of 2002(Y)

PETITIONER:

T.C.BALAN, (EX.P.C.R.2577,
VIYYOOR POLICE STATION), THOTTUPURATHU HOUSE,
KEECHERY P.O., KUNNAMKULAM.

BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR
SRI.S.P.ARAVINDAKSHAN PILLAY
SRI.PIRAPPANCODE V.S.SUDHIR
SMT.N.SANTHA
SRI.SAJU JOHN
SRI.V.VARGHESE
SMT.RESMI G. NAIR
SRI.SUNEESH.M.

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY ITS
CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

2. DEPUTY INSPECTOR GENERAL OF POLICE,
THRISSUR RANGE, THRISSUR.

3. SUPERINTENDENT OF POLICE, THRISSUR.

BY GOVERNMENT PLEADER SRI. BENJAMIN PAUL.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. 44956 OF 2002 IN O.P. NO. 26456 OF 2002.

DISMISSED.

13.12.2007. SD/- K.M. JOSEPH, JUDGE.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : TRUE COPY OF THE MEMO OF CHARGES AS PER REFERENCE NO. PR.5/TSD/85 DATED 27.11.85 OF THE DEPUTY SUPERINTENDENT OF POLICE, THRISSUR.

EXT. P2 : TRUE COPY OF THE SHOW CAUSE NOTICE AS PER REFERENCE NO.PR.70/85 R DATED 30.6.86 OF THE SUPERINTENDENT OF POLICE, THIRSSUR.

EXT. P2(a) : TRUE COPY OF THE PUNISHMENT ROLL MINUTES ENCLOSED ALONG WITH EXT. P2.

EXT. P3 : TRUE COPY OF THE ORDER NO.PR.70/85/R (DO/164/87 R) DATED 13.12.1987 OF THE SUPERINTENDENT OF POLICE, THRISSUR.

EXT. P4 : TRUE COPY OF THE ORDER NO. PR.70/85/R (DO/770/87 R) DATED 2.9.1987 OF THE SUPERINTEDENT OF POLICE, THRISSUR.

EXT. P5 : TRUE COPY OF THE ORDER NO. A2.64/APL/87 DATED 30.7.87 OF THE DEPUTY INSPECTOR GENERAL OF POLICE, CENTRAL RANGE.

EXT. P6 : TRUE COPYOF THE REVIEW PETITION DATED 10.6.88 FILED BY THE PETITIONER BEFORE THE GOVT.

EXT. P7 : TRUE COPY OF THE G.O.(Rt) NO. 3640/90/HOME DATED 2.6.1990.

EXT. P8 : TRUE COPY OF THE PETITION DATED 13.7.1993 SUBMITTED BY THE PETITIONER BEFORE GOVT.

EXT. P9 : TRUE COPY OF THE GOVERNMENT LETTER NO.47022/H3/93/HOME DATED 11.11.93.

EXT. P10 : TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN O.P. 13720/95-G.

EXT. P11 : TRUE COPY OF THE G.O.(Rt) NO.788/2002/HOME DATED 15.4.2002.

K.M.JOSEPH, J.

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O.P. No. 26456 of 2002

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Dated this the 13th day of December, 2007

JUDGMENT

Petitioner was working as Constable. Disciplinary proceedings were launched on the ground that he has contracted bigamous marriage with one Smt. Kurumba. An enquiry was ordered and after considering the report of the enquiry and after issuing notice to the petitioner disciplinary proceeding was finalised by imposing punishment of compulsory retirement on the petitioner. Though petitioner carried the matter in appeal before the appellate authority and thereafter before the Government by way of petition seeking review, the attempt of the petitioner was unsuccessful. Petitioner challenged the decisions of the authorities before this court, which culminated in passing of Ext.P10 judgment by this court. This court took note of the contention of the petitioner that it is not sufficient that an employee is found living with another woman, there should be a marriage as known in law in order that he may be proceeded against. This court by Ext.P10 judgment directed the Government to reconsider the matter. Ext.P11 is the order passed pursuant to Ext.P10. Petitioner challenges Ext.P11.

2. I heard learned counsel for the petitioner and the learned Government Pleader.

3. A perusal of Ext.P11 would show that apart from the petitioner and Smt. Kurumba getting their marriage registered by the Sub Registrar, Pattambi, a finding is entered by the authority that the marriage ceremony was performed in the temple at Thriprayar. It is stated that the petitioner and Smt. Kurumba have admitted that the marriage was performed in the temple. Learned counsel for the petitioner points out that it is not correct to say that the petitioner has admitted. Learned counsel would submit that it is true that Smt. Kurumba had deposed that the marriage was performed in a temple. This is a finding of fact by an authority. This court in judicial review does not sit as an appellate court. This court considers the matter only on the supervisory capacity, As long as there is some evidence, even though petitioner may not have agreed that the marriage was conducted in a temple, I would think that it may not be open for this court to interfere in the matter. Therefore, I reject the contention of the petitioner.

The Original Petition is dismissed.

(K.M. JOSEPH, JUDGE)

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K.M. JOSEPH, J.

O.P. No. 26456 of 2002

JUDGMENT

13.12.2007.